

definitive character with regard to the facts, let me say that I don't know that there has ever been a time when we needed a better understanding of how this could have happened, why it happened, how widespread these practices may have been, what the administration has done about it, what they intend to do about it, why the President was not informed, why the Defense Secretary was not informed until just recently, why no one has seen the report, why the Intelligence Committees were not informed, and why, in other words, has there been this extraordinary disconnect, this unbelievable failure of communication and of oversight.

We need answers. I hope no later than the end of this week the Secretary of Defense can come to the Senate, as he does with some regularity, and explain to us what they know, what happened, and what is going to be done about it.

We must do everything we can to ensure that we understand the circumstances surrounding these appalling acts. We must also be provided with a very specific and detailed response that spells out the measures taken to discipline those responsible and outlines what steps will be taken to ensure this never happens again.

Somehow, we have to say to the international community that this is not the United States of America. I think it is imperative that the Senate itself speak to this issue in some manner. We should send a clear signal through a resolution or some other collective and forceful means that expresses how important it is to adhere to the international standards respecting the human rights of every person.

We cannot be silent. We must learn, respond, and speak out. I hope all that will be done at the earliest possible time.

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#### FIRST DAY OF MEDICARE DRUG CARD ENROLLMENT

Mr. DASCHLE. Mr. President, I want to use the remainder of my leader time to comment on the Medicare temporary drug discount card.

For nearly a decade, Congress has been debating how to provide seniors with meaningful help when it comes to the skyrocketing cost of prescription drugs.

This temporary program represents the first tangible result of that long debate. Until the Medicare prescription drug benefit takes effect in 2006, this is the only assistance seniors will receive.

The administration has introduced this program with great fanfare. Unfortunately, the hype masks the disappointing truth. This program provides far more confusion than real savings. As a result, it represents yet another missed opportunity in our longstanding effort to bring the cost of medicine within the reach of seniors who need it.

Among the many shortcomings in the program are three critical flaws.

First, the discount program forces seniors to go through a baffling number of calculations and decisions.

In order to decide whether the discount program is right for them and, if so, which card to choose, seniors need to ask themselves: First, will the card offer discounts on the drugs I need? Second, is my neighborhood among those where this card is available? Third, does my pharmacist accept the card? Fourth, which of the several cards offered will provide the best discount on the drugs I am personally taking? Are the discounts offered worth the enrollment fee? Could I get a better deal through a separate discount plan offered outside of Medicare? Will I qualify if I am in Medicaid?

The questions go on and on and on. The dizzying array of possibilities and permutations are shown in a number of the pieces of material that have been offered by CMS. I must say the charts and information provided are equally as confusing.

One reason it is so confusing today is that seniors have nowhere to turn for reliable information. The Center for Medicare and Medicaid Services has built a Web site, but it has already been found to have incorrect prices on many of the drugs Medicare recipients rely upon the most.

Unless seniors have faith in the information on which they are basing their decisions, the fact they are given options will mean absolutely nothing.

Second, the program unfairly locks seniors into their choices until the end of the year, even though the card sponsors can change the rules anytime they wish.

Assuming that a Medicare recipient is able to get the information he or she needs to make a smart choice on a plan that could help, it may not matter. At any time, card sponsors can withdraw the discount they were offering on any drug. Meanwhile, even though the rules could change at any minute, Medicare recipients are actually locked into the choice they made until the next enrollment period comes. So they make their decision based on facts provided to them, and they are locked into that decision for the coming year. But those facts can change at any time—the day after, for example—and the Medicare recipient is now committed. Those facts for that recipient could change. This is an extraordinary invitation for abuse. It puts seniors, especially those with serious health conditions, in a very vulnerable position.

Last week, the Secretary of Health and Human Services suggested that seniors wait before enrolling because more information will soon be available.

Because enrollment begins today and the administration has not included this warning in its widespread advertising, I have urged Secretary Thompson to allow Medicare recipients at least a 30-day grace period to enable them to change their decisions should it turn out that another plan could offer a better discount.

In the wake of the confusing and contradicting information seniors are receiving about these cards, the very least HHS can do is to offer them the flexibility to make the right choice once the right information becomes available.

Finally, and most importantly, the program simply doesn't provide much of a discount. A recent analysis found that prices under the new drug cards would be no lower than prices currently available to Medicare beneficiaries.

Furthermore, whatever discounts the cards may provide have already been factored into drug company pricing strategies.

The Wall Street Journal recently reported that several of the drugs seniors use the most have actually seen prices increase more than three times the rate of inflation since this program was announced.

In fact, drugmakers have already raised prices so much that the so-called discounts offered by this program will do little more than return the drugs to their original price.

To add insult to injury, the new law only requires the card sponsors to pass along to beneficiaries a share of the discount that they do negotiate.

That is not good enough, so I have introduced legislation that would require them to pass along at least 90 percent of the savings to seniors. Medicare should not be in the business of propping up profits at the expense of seniors.

After wading through the stupefying process, with its myriad questions and calculations, the fact of the matter is many seniors will not see their drug costs go down 1 penny.

Regrettably, this was entirely predictable. Instead of relying on commonsense solutions we know could bring down the cost of drugs for every senior, Congress created a mystifying maze of computations, replete with new vendors, changing rules, shifting prices, and unreliable information. There is a better way.

Not long ago, I was contacted by a couple from Trent, SD, who, until January, spent \$525 every month to pay for 17 different pills the wife had to take for her diabetes and high blood pressure.

As the cost of the drugs rose higher and higher, it became more difficult to pay their monthly bills, much less enjoy the retirement they worked and saved for. So in order to make ends meet, the husband, at the age of 84—at the age of 84—started a paper route. Once a week, he spent a day delivering a weekly magazine to a number of small towns around Trent. He does not make much, certainly not enough to cover the cost of his wife's prescription drugs, but the added income relieved a little of the sting, and most of the urgent bills could be paid.

In January, the couple called a pharmacy in Canada. They had heard drugs cost less on the other side of the border, and he was curious if they could save a little money.

What they learned stunned them. The same drugs that cost \$525 per month at their local pharmacy cost less than \$100 in Canada. Over the course of the year, the couple will save over \$5,000.

This couple's experience points the way to two commonsense steps Congress could take to guarantee lower drug prices for all Americans.

First, we must make it possible to safely and legally reimport drugs from countries with lower drug prices. Pharmaceutical companies charge American consumers the highest prices in the world. Some medicines cost American patients five times more than they cost patients in other countries.

In effect, our citizens are charged a tax simply for being American. As a result, millions of Americans are having trouble affording lifesaving medication.

Last month, Senators reached a bipartisan agreement to introduce a bill that would allow reimportation of prescription drugs. I want to thank Senators DORGAN and MCCAIN for their extraordinary leadership, and also those who joined with us—Senators SNOWE, KENNEDY, and LOTT, and others on both sides of the aisle.

This is the same medication, manufactured at the same facilities, and inspected by the same rigorous safety standards. It is absurd, even cruel, to force Americans to pay wildly inflated costs, driving hundreds of thousands of Americans into poverty, just to pad the profits of pharmaceutical companies.

Second, it is time to give the Government the same negotiating leverage it has on every other product it buys. When the Government buys computers or automobiles or equipment for our soldiers in uniform, it uses its purchasing power to get the taxpayer a better deal. We should have the same ability to negotiate for drugs on behalf of 41 million Medicare beneficiaries.

The administration has repeatedly opposed this commonsense price-reducing measure and insisted on a provision in the Medicare law that expressly prohibits the Federal Government from using leverage to bargain for lower drug prices.

Let's be clear, if we have the power to save taxpayers money and choose not to use it, we are, in effect, throwing taxpayers' money away. This is foolish and irresponsible. It helps no one but the drug companies who can count on their bloated profits. By defending the system, the administration is merely showing whose side they are truly on.

America's seniors deserve better. The question isn't how we bring down drug costs for seniors. We know how. Rather the question we face is whether we truly want to bring down costs for seniors. The administration and many of our Republican colleagues have given their answer. Over the next several months, seniors are going to see this drug card program is not up to the task of controlling the spiraling drug costs.

Instead of helping seniors afford the drugs they need, it is designed to help drug companies reap the profits to which they are accustomed. Seniors need a real Medicare prescription drug benefit that puts their needs first.

We are going to try to continue to work across the aisle, as we did with the reimportation bill, to find a way to bring down these costs, to find a way to empower the Government to work on behalf of all seniors to negotiate better prices.

There is an answer to the high cost of prescription drugs. The program being introduced today and unveiled this week is not it. We can do better than this, and I hope we will.

I yield the floor.

#### MORNING BUSINESS

The PRESIDING OFFICER (Mr. THOMAS). Under the previous order, there will now be a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee, and the second 30 minutes under the control of the Democratic leader or his designee.

The Senator from North Carolina.

#### OVERTIME RULES

Mrs. DOLE. Mr. President, this morning I want to praise the work of Elaine Chao and her staff on the final regulations to strengthen overtime rules for all Americans. Elaine Chao worked with me when I served as Secretary of Transportation, and I know her to be a public servant of the highest intelligence and integrity.

Secretary Chao has identified the problems with outdated regulations and has taken the action necessary to rectify them. I admire her principled stand on such a controversial issue, and I commend her for her foresight in recognizing and working to fix the problems.

The Fair Labor Standards Act regulations have not been revised since 1954, but labor forces, as well as employers, have changed dramatically over that 50-year period. These updates take into account the economic demands of technological advancements, salary growths, and shifts in the labor force that have occurred in the past half century, and they modernize these regulations for a modern workforce.

Updating the rules is crucial to the 6.7 million Americans making \$23,660 or less a year because until now only workers earning less than \$8,060 annually were guaranteed overtime. The final rule provides a greatly needed increase, and, in addition, 1.3 million white-collar workers will benefit from their new earnings. The benefits do not stop there. More than 5 million workers will enjoy an ironclad guarantee of overtime rights, regardless of job duties, under this final rule.

As a woman well acquainted with labor issues across this Nation, I have

watched the increase of Fair Labor Standards Act class action suits over the years with growing concern. To my dismay, the number of suits has almost tripled—triple—since 1997. Even worse, these lawsuits are estimated to cost our economy approximately \$2 billion a year. The vague language in the laws has allowed an opportunity for class action attorneys to render a defense extremely expensive and difficult to counter, regardless of how well the employer complies with the law.

These suits have placed even greater pressure on our already overburdened judicial system, and they reinforce the need for these rules.

Certain groups out to prevent the Department of Labor from improving the rules and making the necessary clarifications have greatly exaggerated the effects of the rule. Fortunately, their efforts were unsuccessful.

Critics expressed concern about who is and who is not potentially affected by the new rules—why, for instance, a first responder's overtime is protected. There is no question that America has a profound sense of the significance of our first responders, especially following the events of 9/11. This new protection extends to all of our first responders, our police officers, firefighters, paramedics, nurses, and emergency medical technicians.

For those who feared team leaders could be unfairly disadvantaged under the proposed rules, let me assure you the final rules make it clear blue-collar workers who are team leaders are guaranteed overtime pay. Additionally, white-collar team leaders will enjoy greater protections than they do today.

I hope my colleagues on both sides of the aisle will give careful consideration to the clear benefits these final rules will afford our Nation before voting. I believe these final rules are the product of constructive feedback that is afforded to all proposed rules through the public comment period. In this case, I am told 75,000 to 80,000 comments were received and analyzed. With the new rules in place, workers will clearly know their rights and employers their responsibilities.

Again, I thank Secretary Chao for her extraordinary leadership and vision in making millions of low-income workers eligible for overtime, updating the antiquated and confusing rules and regulations, and taking this important step toward eliminating the billions of dollars in lawsuits related to overtime cases.

I quote from today's Washington Post:

What's needed now is not to block these regulations but to ensure that they are vigorously enforced with an eye to protecting the vulnerable workers the law was intended to benefit.

I urge all my colleagues to support this rule and vote no on the Harkin amendment.

I yield the floor.

The PRESIDING OFFICER. The minority whip.